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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,040	11/17/2003	Richard Heiss	12400-3	4286
<div>7590      09/19/2007</div> <div>James M. Duncan Klein, DeNatale, Goldner, Cooper, Rosenlieb &amp; Kimball, LLP P.O. Box 11172 Bakersfield, CA 93389-1172</div> <div>EXAMINER CANFIELD, ROBERT</div> <div>ART UNIT      PAPER NUMBER</div> <div>3635</div> <div>MAIL DATE      DELIVERY MODE</div> <div>09/19/2007      PAPER</div>				

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/716,040

Applicant(s)

HEISS ET AL.

Examiner

Robert J. Canfield

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17, 20-39, 42-44 and 46-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17, 20-39, 42-44 and 46-59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 June 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 3635

1. This Office action is in response to the amendment filed 06/19/07. Claims 1-17, 20-39, 42-44 and 46-59 are pending. Claims 18, 19, 40, 41, and 45 have been canceled.

2. The replacement drawing sheets filed 06/19/07 are accepted.

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-5, 7, 10-12, 14-17, 20-23, 25, 28-30, 32, 36-39, 42-44, 46, 48, 52, and 54-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,157,189 to Farnham.

Farnham provides a power operated crutch (an art equivalent term for a cane) comprised of a second member 14 telescopically received within a first member 12, a ground engaging tip 21, a ball screw 24 and ball nut (col. 2, line 57+), a motor 20 attached to the ball screw (figure 2), the motor operated by switch 46 and powered by battery 44, a handle 16 and suitable gearing (col. 2, line 70).

Farnham fails to specify that the ball screw is attached to the power means by a planetary gear train comprising first and second planetary gear assemblies.

Planetary gear assemblies used with ball screws for moving objects along a linear path are well known in gearing arts and would have been an obvious choice to design for the "suitable gearing" of Farnham. The use of planetary

gearing would yield predictable results to those familiar with mechanical engineering and Farnham provides the suggestion that known gearing arrangements may be used.

5. Claims 6, 24, 47 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over by U.S. Patent 3,157,189 to Farnham.

Farnham as modified above provides each of the elements of these claims except that the housing comprises a thermoplastic material. Farnham is silent to the material. The examiner takes Official Notice that thermoplastics would have been obvious material choices at the time of the invention to one having ordinary skill in the art for use in making the crutch of Farnham. It would have been obvious to have used thermoplastics for their inherent material properties such as light weight, corrosion resistance, and ease in forming.

6. Claims 8, 9, 26, 27, 49 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over by U.S. Patent 3,157,189 to Farnham.

Farnham as modified above provides each of the elements of these claims except for calling for stop pins. Farnham discusses the use of stop means at column 3, line 24+ and also discusses that known ball screw and nut devices may be used as the actuator. Freewheeling ball screw/nut assemblies using stop pins are well known and it would have been obvious at the time of the invention to one having ordinary skill in the art to use in the crutch of Farnham to prevent

the nut from traveling even when power remains engaged and thus prevent damage which Farnham discusses at column 3, lines 24+.

7. Claims 13, 31, 33, 34, 35, 51 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over by U.S. Patent 3,157,189 to Farnham in view of WO 99/00101.

Farnham as modified above provides each of the elements of the claims except that the battery 44 is located within the handle and is rechargeable.

Applicant admits on page 2, line 15 of his specification that one of ordinary skill in the art readily recognize that the battery could be place in many different locations and the WO patent shows that at the time of the invention it was known to provide the battery 15 within the handle. To have placed the battery of Farnham within the handle of Farnham would have been an obvious choice of design at the time of the invention to one having ordinary skill in the art in view of the teaching of the WO patent.

It would have been obvious at the time of the invention to one having ordinary skill in the art that a rechargeable battery (which would inherently have a recharging port) could have been used as the "suitable battery means 44" of Farnham as rechargeable batteries are well recognized equivalent to disposable batteries and are an obvious choice for their inherent benefits to the environment.

Art Unit: 3635

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 5,086,861 to Peterson teaches the use a planetary gear sets with electric motors and ball screw assemblies.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Canfield whose telephone number is 571-272-6840. The examiner can normally be reached on M-Th.

Art Unit: 3635

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rich Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert J Canfield  
Primary Examiner  
Art Unit 3635

A handwritten signature in black ink, appearing to be 'RJC', written over the printed name of the examiner.

09/14/07